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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/678,169	10/02/2000	Robert W. Crowder JR.	732.436 SDG.UA	4125

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Robert C. Ryan
P. O. Box 20038
Reno, NV 89515-0038

EXAMINER

MARKS, CHRISTINA M

ART UNIT	PAPER NUMBER
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3713

DATE MAILED: 12/03/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

S M .

Office Action Summary	Application No.	Applicant(s)
	09/678,169	CROWDER ET AL.
	Examiner C. Marks	Art Unit 3713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 02 October 2000.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-30 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-30 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 02 October 2000 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) Notice of References Cited (PTO-892) 4) Interview Summary (PTO-413) Paper No(s). _____.
2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) Notice of Informal Patent Application (PTO-152)
3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____. 6) Other:

DETAILED ACTION

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the game processor, cash emulation processor, credit information system, interception processor, and the dispenser emulation processor must be shown or the feature(s) canceled from the claim(s). No new matter should be entered. Furthermore, method steps of the drawings (FIG 1-8) must be presented in flow chart form.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

The disclosure is objected to because of the following informalities: On page 9, line 15-16 it is disclosed that a keypad is illustrated in the drawings on device 34. This keypad is absent from the drawings.

Appropriate correction is required.

Claim Objections

Claim 14 objected to because of the following informalities: The *lettering* of the components comprising the cashless adaptor system starts with C. The lettering should start with A. Appropriate correction is required.

11
27
02

Claim 30 is objected to because it dependent on itself. For examination purposes, it will be assumed the claim is meant to be dependent on independent claim 28.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 4-6, 8, 10, 13, 15, 17, 19, 20, 22, 24, 26, 27 and 29 rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art an understanding of the feature being described. The specification lacks support for what is meant by a network communication link to a credit information system. It is not understood by one skilled in the art whether the credit information deals with gaming credits available to the user or actual credit information (such as credit history or bank information) about the user. For examination purposes, the credit information system will be interpreted to mean that of determining credit information about a user.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims recite permissive language by stating the structure “may” do a function. This language does not properly define what is claimed and is therefore indefinite.

An example of this can be found in claim 1, line 7 where it is stated that the cash emulation processor may emulate at least a portion of the cash transaction unit. To correct this permissive language, it is suggested that the sentence be changed to “the cash emulation processor emulates at least a portion of the cash transaction unit.”

The following is a quotation of the fourth paragraph of 35 U.S.C. 112:

A claim in dependent form shall contain a reference to a claim previously set forth and then specify a further limitation of the subject matter claimed. A claim in dependent form shall be construed to incorporate by reference all the limitations of the claim to which it refers.

Claim 30 rejected under 35 U.S.C. 112, fourth paragraph as failing to further limit the parent claim because no further method steps are provided to limit the parent claim. The claim is only structural; therefore, no additional processes have been added to the methods of the parent claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 7 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Capers et al. (US Patent No. 4,669,596).

Capers et al. disclose a vending machine that is permitted to be accessed both with cash and cashless. The unit has an interface, a processor, and a cash transaction unit mounted in a

housing. The machine also has a cash emulation processor that communicates with the processor of the machine to dispense item that is in a separate housing from the machine (FIG 1 and FIG 2). This emulation is apparent in the identical actions resulting from both a cash and cashless transaction. When a cash transaction occurs, a coin is deposited in the slot of the money-handling unit; the unit counts the money, compares the counted money with the preset price, and if the amount is sufficient, a signal is sent to the item dispensing unit (Column 2, lines 65-68; Column 3, lines 1-3). This process is identically emulated to correspond to cashless processes. Data is read from a card and a means for comparing the encoded data with price information is performed. When the amount available on the card is sufficient, a signal is sent to the item-dispensing unit (Column 1, lines 64-68). The machine enables the credit amount encoded on the card to be displayed (Column 2, lines 1-3) and further comprises a cash dispenser mounted in the housing (FIG 2).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.

2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-6, 8, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Capers et al. (US Patent No. 4,669,596) and Crevelt et al. (US Patent No. 5,902,983) viewed collectively.

Capers et al. disclose a machine that is permitted to be accessed both with cash and cashless. The unit has an interface, a processor, and a cash transaction unit mounted in a housing. The machine also has a cash emulation processor that communicates with the processor of the machine to dispense item that is in a separate housing from the machine (FIG 1 and FIG 2). This emulation is apparent in the identical actions resulting from both a cash and cashless transaction. When a cash transaction occurs, a coin is deposited in the slot of the money-handling unit; the unit counts the money, compares the counted money with the preset price, and if the amount is sufficient, a signal is sent to the item dispensing unit (Column 2, lines 65-68; Column 3, lines 1-3). This process is identically emulated to correspond to cashless processes. Data is read from a card and a means for comparing the encoded data with price information is performed. When the amount available on the card is sufficient, a signal is sent to the item-dispensing unit (Column 1, lines 64-68).

Crevelt et al. disclose a gaming machine, which like the vending device of Capers et al., has been adapted for cashless transfer. The machine has a peripheral device (shown in FIG 2 that one of ordinary skill in the art would understand to be the cash emulation device) interfaced to the gaming machine in order for the player to initiate the cashless gaming (Column 5, lines 41-44). The cashless device can send requests over a network communication link (FIG 2) and

receive authorizations for an EFT system located distal from the cash emulation processor device (Abstract).

The devices of Crevelt et al. and Capers et al. have similar structures of incorporating peripheral cashless devices used to perform the identical functions of allowing the user to access the device without the necessity of cash.

Crevelt et al. furthers on the basic coded card structure of Capers et al. by allowing the user to use their own credit card or bankcard to access their funds. This would provide greater convenience to the user, as they would have the ability to access the machine with cards already in their possession.

The actual commercial use between the two devices is the only difference in regard to the cashless function. It would have been obvious to one skilled in the art at the time of invention to combine the teachings of these two devices to develop a cash emulation machine as disclosed by Capers et al. that could be adapted into a gaming environment based upon the teachings of Crevelt et al. By incorporating the cash emulation teachings of Capers et al. into a gaming machine, the device would provide the opportunity for increased profit, as gambling machines are well known in the art to provide the establishment with a profit much greater than that of a vending machine.

Claims 9-13 and 16-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Capers et al. (US Patent No. 4,669,596), Crevelt et al. (US Patent No. 5,902,983), and Perrie et al. (US Patent No.6,173,955) viewed collectively.

What Capers et al. and Crevelt et al. disclose, teach, and/or suggest has been discussed above and is incorporated herein.

Capers et al. and Crevelt et al. provide a system that collectively is used to incorporate cashless gaming. The Capers et al. machine also allows for the system to also be cash operated. Through the combined teachings of Crevelt et al. and Capers et al. a gaming machine is disclosed that is both cashless and possesses the ability to also be operated with cash. However, the functionality of such a system is not disclosed between the teachings.

Perrie et al. disclose such a system as described above. Perrie et al. disclose a game of chance above where both cash and cashless gaming is incorporated where there are multiple ways to cash in and out. Perrie et al. disclose that there are numerous approaches to inputting a wager including, but not limited to: coin in, bill in, card in (credit, debit, or smart) which establish a credit on the machine that will be displayed on the credit meter (Column 7, lines 48-53) which serves as a record to the received credits.

Perrie et al. also discloses that when cashing out, there may be one of many structural devices that can be used from a coin out mechanism, tickets dispensed or the like. Furthermore, the cash out function could be combined to include a case where a smart card is used wherein when the cash out function is activated, credits are delivered to the card (Column 8, lines 10-20).

By allowing the device to credit a smart card instead of delivering coins when the cash out button is hit, Perrie et al. provide an interception to the cash out process by altering the normal procedure for cashing out. Axiomatic to the functionality of Perrie et al. there is a type of interception processor that will control this action. The interception processor will intercept the signal from the cash out button to credit the smart card. The device of Perrie et al. also

axiomatically suggests a dispenser emulator. This dispenser emulation process is carried out as the player cashes out and chooses their smart card be credited. This action would cause the act of dispensing the winnings to be emulated by crediting the player's smart card instead of actually providing the player with cash winnings.

In response to the method claims 28-30, these claims are directed to claiming the "end-use", i.e. to provide a method of providing the cashless device using the disclosed invention, the function or operation of the claimed apparatus within the instant application. It is well understood by those of ordinary skill in the art that the "end-use" of a well-known product is not patentable where there has not been a showing of criticality for that "end-use" being claimed as a method. Likewise, it is well understood by those of ordinary skill in the art that: 1) claiming how a well known device found within the prior art would be operated by one of ordinary skill in the art or 2) claiming how that same device would function when one of ordinary skill in the art would construct such a well known device, is not patentable because it is deemed obvious within the purview of knowledge of those of ordinary skill within the art. At this point, within the instant application, the Applicant has not demonstrated by evidence any criticality for the "end-use" of the disclosed apparatus. Instead, the Applicant demonstrates and claims how to operate the disclosed invention and how said invention functions when a patron would use the disclosed invention and there appears no criticality for the functionality or operability of the disclosed device; criticality appears just for the device *per se*, and not its modes of operation or usage. Therefore, absent a showing of criticality for the "end-use" to the invention, one of ordinary skill in the art at the time of the invention was made would find it obvious to use the disclosed invention found in the prior art of Capers et al. (US Patent No. 4,669,596), Crevelt et al. (US

Patent No. 5,902,983), and Perrie et al. (US Patent No.6,173,955) viewed collectively which meets the claimed limitations of the apparatus in the end manner claimed within these claims. Likewise, how a well known device found within the prior art functions and how one of ordinary skill in the art would operate it or permit a user to operate it is obvious to one of ordinary skill in the art absent a showing of criticality to the contrary.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

US Patent No. 5,919,091: Combined cashless/cash video gaming method where player has the ability to use either means to purchase play.

US Patent No. 5,457,306: Credit card gaming wherein credit information is obtained from a site distal to the gaming machine.

US Patent No. 6,471,590: Cashless peripheral device connected to a gaming machine wherein the player can purchase play via an encoded ticket.

US Patent 4,518,098: Analogous slot machine and vending machine showing the combination wherein a player playing the shot machine can receive a vending machine prize.

The Switzerland Coke Machine: Coke machine that can be accessed via the internet wherein drinks can be purchased from a site remote to the machine and the cash function will be emulated to receive the coke.

Coke Manual Page: Manual page for a device very similar to the Switzerland Coke machine. A player can set up an account and then debit this account in a cashless manner to purchase cokes.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Marks whose telephone number is (703)-305-7497. The examiner can normally be reached on Monday - Friday (7:30AM - 4:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, V. Martin-Wallace can be reached on (703)-308-1148. The fax phone numbers for the organization where this application or proceeding is assigned are (703)-872-9302 for regular communications and (703)-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)-308-1148.

cmm
cmm
November 27, 2002



**MICHAEL O'NEILL
PRIMARY EXAMINER**